

REMARKS

Claim Rejections

Claims 1-9 stand rejected under 35 U.S.C. § 102(b), as being anticipated by Keliiliki et al. (6,427,018).

Drawings

It is noted that no Patent Drawing Review (Form PTO-948) was received with the outstanding Office Action. Thus, Applicant must assume that the drawings are acceptable as filed.

Amended Claims

By this Amendment, Applicant has amended claims 1 and 5 of this application. It is believed that the amended claims specifically set forth each element of Applicant's invention in full compliance with 35 U.S.C. § 112, and define subject matter that is patentably distinguishable over the cited prior.

The amended claims are directed towards an adjustable ear-hook microphone including, *inter alia*, a wire entry, a wire exit, and a wire channel in the upper part of a C-shaped hook which together form a ***substantially straight passage for a wire***.

On p. 4 of the outstanding Office Action, the Examiner has stated:

With respect to the Applicant's second argument that *Keliiliki does not teach the passage between the wire entry and the wire exit is a straight line*, the Examiner agrees. However, the claims as written state that there is a substantially "straight wire" passage as opposed to a passage for a twisted, retractable, etc., wire. Therefore, Keliiliki satisfies the claimed language.

In view of the above, it is clear that Keliiliki et al. do not teach an adjustable ear-hook microphone including a wire entry, a wire exit, and a wire channel in the upper part of a C-shaped hook which together form a substantially straight passage for a wire.

It is axiomatic in U.S. patent law that, in order for a reference to anticipate a claimed structure, it must clearly disclose each and every feature of the claimed structure. Applicant submits that it is abundantly clear, as discussed above, that Keliiliki et al. do not disclose each and every feature of Applicant's amended claims and, therefore, could not possibly anticipate these claims under 35 U.S.C. § 102. Absent a specific showing of these features, Keliiliki et al. cannot be said to anticipate any of Applicant's amended claims under 35 U.S.C. § 102.

It is further submitted that Keliiliki et al. do not disclose, or suggest any modification of the specifically disclosed structures that would lead one having ordinary skill in the art to arrive at Applicant's claimed structure. Thus, it is not believed that Keliiliki et al. render obvious any of Applicant's amended claims under 35 U.S.C. § 103.

Summary

In view of the foregoing amendments and remarks, Applicant submits that this application is now in condition for allowance and such action is respectfully requested.

It is not believed that the foregoing amendments to claims 1 and 5 requires any further searching and/or consideration on the part of the Examiner, since such amendment merely clarifies language added in Applicant's prior Amendment, *i.e.*, it is the passage, not the wire, that is recited as "straight. " Thus, the Examiner would have inherently searched this subject matter during the previous consideration of claims 1 and 5.


Application No. 10/781,734

Should any points remain in issue, which the Examiner feels could best be resolved by either a personal or a telephone interview, it is urged that Applicant's local attorney be contacted at the exchange listed below.

Respectfully submitted,

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